



# County of San Mateo

## Inter-Departmental Correspondence

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**Department:** PARKS

**File #:** 20-097

Board Meeting Date: 3/10/2020

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**Special Notice / Hearing:** 3 weeks  
**Vote Required:** Majority

**To:** Honorable Board of Supervisors

**From:** Nicholas J. Calderon, Parks Director

**Subject:** Acquisition of the Tunitas Creek Beach Property, and Execution of the Post Transfer Agreement and Cowell-Purisima Trail Agreement

**RECOMMENDATION:**

Recommendation to:

- A) Adopt a resolution authorizing the President of the Board of Supervisors to execute a Certificate of Acceptance and Irrevocable Offer to Dedicate Title in Fee, both to be recorded concurrently with the Grant Deed for the County of San Mateo's acquisition of the real property located at 20775 Cabrillo Highway South, in unincorporated San Mateo County, also known as the Tunitas Creek Beach Property for \$3.2 million; and
- B) Adopt a resolution authorizing the establishment of the Tunitas Creek Beach Trust Fund, and the transfer of \$2 million from Non-Departmental Services into the Tunitas Creek Beach Trust Fund; and
- C) Adopt a resolution authorizing:
  - 1. The Parks Director, or his designee, to execute the Post Transfer Agreement between the County and the Peninsula Open Space Trust thereby establishing the County's rights and obligations for accessing funds raised by the Peninsula Open Space Trust for the benefit of the Tunitas Creek Beach Property; and
  - 2. The Parks Director, or his designee, to execute the Cowell-Purisima Trail Agreement between the County of San Mateo, the Peninsula Open Space Trust, and California State Coastal Conservancy detailing each party's responsibilities related to the Cowell-Purisima Trail for two consecutive five-year terms.

**BACKGROUND:**

At the May 14, 2019 Board of Supervisors meeting, your Board authorized the execution of a Purchase and Sale Agreement (“PSA”) with the Peninsula Open Space Trust (“POST”) for the County’s acquisition of the Tunitas Creek Beach Property (“Property”) for \$3.2 million. The acquisition is being funded by a State Coastal Conservancy (“SCC”) acquisition grant, which your Board accepted at the same meeting.

The County desires to purchase the Property for environmental preservation, recreation, and open space purposes, and the Parks Department intends to convert the Property into a County park for the benefit of the public. The Parks Department will construct improvements that allow the public to safely access and recreate at the Property without damaging sensitive resources. Improvements are scheduled to include picnic tables, restrooms, beach access trails, parking lots, overlooks, and interpretive signage. The Parks Department intends to make improvements accessible when practicable and is exploring ways to provide programmatic access to the beach. All costs associated with the planning, permitting, and designing of improvements are being funded by an SCC planning grant. A project update will be provided to your Board at the conclusion of the public engagement process in fall of 2020.

As a condition precedent to the consummation of the acquisition transaction, two separate agreements were to be negotiated and executed; the Post Transfer Agreement and the Cowell-Purissima Trail Agreement. Parks Department staff has negotiated the terms and conditions of each agreement, and a summary is provided in the Discussion section below. All other conditions precedent have been satisfied.

#### **DISCUSSION:**

The Irrevocable Offer to Dedicate Title in Fee (“Offer to Dedicate”) will be recorded concurrently with the Certificate of Acceptance and Grant Deed. The Offer to Dedicate, which is required by the SCC acquisition grant, sets forth certain restrictions on the County’s use of the Property, and requires written approval from SCC prior to the County transferring title to the Property or using the Property for outside mitigation purposes. Your Board approved a form of the Offer to Dedicate on May 14, 2019, but Conservancy now requires certain non-substantive revisions to Section 1.a. to clarify that the Property may only be used for such purposes as authorized by the SCC Governing Board, which include open space preservation, public access to the coast, and natural resource protection. Parks Department staff have determined that the revised language is supportive of the Parks Department’s mission, and recommends authorizing the revised Offer to Dedicate.

#### *Post Transfer Agreement*

Pursuant to Section 4 of the PSA, and as further detailed in the Post Transfer Agreement, the County Controller’s Office will create the Tunitas Creek Beach Trust Fund, which will be comprised of \$2 million and be used for such purposes as planning, permitting, designing, constructing, and managing Property infrastructure and improvements. The funds may also be used to purchase equipment and supplies required to manage the Property as a County park, and to conduct habitat restoration and preservation efforts. The County previously set aside the \$2 million in Non-Departmental Services’ Fiscal Year 2019-20 Adopted Budget.

Similarly, POST is to create a trust account totaling no less than \$3.245 million, which is comprised of funds donated by the Moore Foundation, Midpeninsula Regional Open Space District, and POST donors. These funds may be accessed by the Parks Department to plan, permit, design, construct, and manage facilities and improvements relating to public access and recreation and resource protection on the Property. These funds may also be used by the Parks Department for part-time staffing, though not for full-time Department staffing, to assist in the protection of Property resources.

In order for the Parks Department to access POST's funds, the Parks Department must first expend the \$2 million in the Tunitas Creek Beach Trust Fund.

As further required by the Post Transfer Agreement, the County will grant limited levels of public access to the Property starting no later than November 15, 2020; provided that such access can be provided in a safe manner. Such limited public access may only be provided until September 30, 2021, by which time full public access to the Property must be provided if active construction of improvements is not underway. The term of the Post Transfer Agreement shall run for 20 years or until all funds have been expended, whichever occurs first.

#### *Cowell-Purisima Trail Agreement*

POST and SCC own and operate the Cowell-Purisima Coastal Trail, which is a three-mile-long California Coastal Trail segment located south of the City of Half Moon Bay and north of the Property. Due to existing operational and funding constraints, the trail is only open on weekends. To expand operational hours to seven days a week, and in consideration of the grants received by SCC and funds secured by POST, the Parks Department will assume management of the trail for two consecutive five-year terms.

The Parks Department's management responsibilities include opening and closing the trail seven days a week; enforcing applicable trail rules and regulations; providing emergency response services; conducting routine maintenance of the trail and minor improvements; and cleaning and pumping the restroom. The County will not be responsible for maintaining large infrastructure including restrooms and bridges, nor will the County be responsible for completing large-scale capital improvements or repairs.

During the first term of this trail agreement, the Parks Department will absorb all costs associated with its management responsibilities. This is because SCC, Midpeninsula Regional Open Space District, and other funders donated to the effort of preserving the Property with the understanding that the Cowell-Purisima Trail would also be made open to the public seven days a week. During the second term of the agreement, however, all costs associated with the Parks Department's management of the trail will be funded by POST through funds identified in the Post Transfer Agreement.

Pursuant to California law governing public agencies' acquisition of land, this hearing was noticed three weeks in advance. County Counsel has reviewed and approved the resolutions, Certificate of Acceptance, and agreements as to form and content.

#### **FISCAL IMPACT:**

The \$3.2 million purchase price, as well as all costs associated with planning, permitting, and designing the Property improvements, will be funded by the SCC grants. The County's \$2 million commitment as required by the Post Transfer Agreement was included in Non-Departmental Services' Fiscal Year 2019-20 Adopted Budget, and will be transferred to the Tunitas Creek Beach Trust Fund.